



**DEPARTMENT OF TRANSPORTATION**

**[4910-EX-P]**

**Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA–2014–0326]**

**Parts and Accessories Necessary for Safe Operation; Denial of an Exemption Application from Atwood Forest Products, Inc.**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Denial of exemption application.

**SUMMARY:** FMCSA denies an exemption application from Atwood Forest Products, Inc. (Atwood) to allow the use of a camera system installed at the sides and rear of up to 15 of its commercial motor vehicles (CMV) in lieu of rear-vision mirrors as specified in the Federal Motor Carrier Safety Regulations (FMCSR). Section 393.80 of the FMCSRs requires every bus, truck, and truck tractor to be equipped with two rear-vision mirrors, one at each side, firmly attached to the outside of the motor vehicle, and so located as to reflect to the driver a view of the highway to the rear along both sides of the vehicle. All such mirrors must, at a minimum, meet the requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 111, “Rearview mirrors,” in effect at the time the vehicle was manufactured. While Atwood wanted to install the camera system on its vehicles for use in an evaluation study to evaluate the safety and economic benefits of eliminating outside mirrors, it did not provide evidence to enable the Agency to conclude that motor carriers operating vehicles without any rear-vision mirrors could achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained by complying with the regulation.

**FOR FURTHER INFORMATION CONTACT:** Mr. Mike Huntley, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC–PSV, (202) 366–5370;

Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

Section 4007 of the Transportation Equity Act for the 21st Century (TEA– 21) [Pub. L. 105–178, June 9, 1998, 112 Stat. 401] amended 49 U.S.C. 31315 and 31136(e) to provide authority to grant exemptions from the FMCSRs. On August 20, 2004, FMCSA published a final rule (69 FR 51589) implementing section 4007. Under this rule, FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public with an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and the public comments and determines whether granting the exemption would likely achieve a level of safety equivalent to or greater than the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)). If the Agency denies the request, it must state the reason for doing so. If the decision is to grant the exemption, the notice must specify the person or class of persons receiving the exemption and the regulatory provision or provisions from which an exemption is granted. The notice must specify the effective period of the exemption (up to 2 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.315(c) and 49 CFR 381.300(b)).

### **Atwood Application for Exemption**

Atwood applied for an exemption from 49 CFR 393.80 to allow the use of a camera system installed at the sides and rear of CMVs in lieu of rear-vision mirrors as specified in the

FMCSRs. A copy of the application is included in the docket referenced at the beginning of this notice.

Section 393.80 of the FMCSRs currently requires every bus, truck, and truck tractor to be equipped with two rear-vision mirrors, one at each side, firmly attached to the outside of the motor vehicle, and so located as to reflect to the driver a view of the highway to the rear along both sides of the vehicle. All such mirrors must, at a minimum, meet the requirements of FMVSS No. 111 in effect at the time the vehicle was manufactured. The purpose of FMVSS No. 111 is to reduce the number of deaths and injuries that occur when the driver of a motor vehicle does not have a clear and reasonably unobstructed view to the rear.

In its application, Atwood states:

Atwood Forest Products, Inc. is making this request because we are coordinating device development and installation of rear cameras in up to fifteen (15) commercial motor vehicles and trailers. The camera equipment to be installed is going to be located at rear of trailers and at sides of motor vehicles. A monitor is to be located in the cab...Regulations currently require that mirrors be installed on each side of [a] tractor. Our system will remove outside mirrors and install cameras at the rear of trailers and cabs and motor vehicles with monitors inside the cabs of tractors.

Atwood contends that without the proposed temporary exemption, it will not be able to deploy cameras and monitors in its vehicles because they will be fined for violating the current regulation, which requires rear-vision mirrors. With the exemption, Atwood states that it “will be able to install the camera systems in a location which will offer the best opportunity to optimize the data and evaluate the benefits of such a system” which would eliminate the need for the currently required outside mirrors.

### **Public Comments**

On August 28, 2014, FMCSA published a notice of the Atwood application and asked for public comment (79 FR 51391). The Agency received four comments.

Advocates for Highway and Auto Safety (“Advocates”) opposed the exemption application, stating:

Atwood provides absolutely no analysis of the safety impacts the exemption may have. Atwood provides no actual data regarding safety performance at all. In fact, the applicant failed to provide even a rudimentary study to confirm that the proposed systems would provide performance in accordance with FMVSS 111.

Atwood has provided no evidence that their proposed exemption would ensure safety and mitigate the concerns regarding rearview visibility which spurred the FMCSR requirement and the underlying FMVSS. Likewise, the applicant fails to cite any research on the performance of the proposed systems, the visibility coverage offered, the possibility of driver distraction, or even usability studies to confirm that the proposed monitor and camera systems would allow a driver to operate a vehicle as safely as while using traditional, compliant, mirrors.

The Application is, therefore, insufficient on its face, as Atwood neither performed nor included any form of safety analysis in their application nor provided any form of explanation as to how the applicant would ensure that the proposed exemption will achieve an equivalent level of safety as required by both the statute and regulation. The requirement for a safety analysis is part of the statute and regulations governing the granting of exemptions precisely to ensure that exemptions which increase risk and decrease safety are not permitted.

Two anonymous commenters opposed the exemption application, citing concerns that the camera-based system may be prone to operational failure in the event of electrical outages. One of the commenters stated that the camera-based system could be used “IN ADDITION to rearview mirrors, but not IN LIEU of” the required mirrors.

The Owner-Operator Independent Drivers Association (OOIDA) stated “This system quite possibly could have additional safety benefits when utilized by a well-trained driver. However, there are significant questions regarding this application, both in terms of the technology proposed by Atwood, and the method that Atwood and Safety Track would use to evaluate the performance of the camera systems. As such, OOIDA urges the FMCSA to only move forward with granting the exemption request under significant restrictions.”

OOIDA – like the anonymous commenters – noted concerns regarding the reliability of the camera-based system due to its reliance on electronic components. OOIDA encouraged FMCSA to consider mandating some type of redundancy in the system if the exemption application is granted. OOIDA stated:

Mandating the inclusion of one external mirror on each side of the cab (even if smaller than current standards) could provide a level of protection against electronics failure. Requiring redundancy in the electronics system might provide an acceptable level of protection. Rather than one monitor, two monitors with independent wiring systems may accomplish a lower risk of failure.

While current mirrors are susceptible to environmental conditions that lessen their effectiveness (rain, road, spray, fog) they never fail completely. We encourage the consideration of this exemption request to utilize appropriate technology, but caution against complete reliance on technology (without redundancy) – at least until a suitable time where the technology has proven reliability in the very harsh conditions that a CMV operates within.

In addition, OOIDA echoed Advocates’ concerns that Atwood had failed to provide “any detailed description of the proposed analysis of the effectiveness of the system.”

### **FMVSS No. 111; NHTSA Rulemaking**

Specifically with respect to CMVs, FMVSS No. 111 requires vehicles with a GVWR of more than 10,000 pounds (excluding trailers) to have mirrors installed on both sides of the vehicle, located so as to provide the driver a view to the rear along both sides of the vehicle and adjustable both in the horizontal and vertical directions to view the rearward scene. On April 7, 2014, and to satisfy the mandate of the Cameron Gulbransen Kids Transportation Safety Act of 2007 (“K.T. Safety Act”), the National Highway Traffic Safety Administration (NHTSA) published a final rule amending FMVSS No. 111 to expand the required field of view for all passenger cars, trucks, multipurpose passenger vehicles, buses, and low-speed vehicles with a GVW of less than 10,000 pounds (79 FR 19178). Specifically, the rule specifies an area behind the vehicle which must be visible to the driver when the vehicle is placed into reverse and other related performance requirements. NHTSA noted that it anticipates vehicle manufacturers will use rearview video systems and in-vehicle visual displays in the near term to meet the requirements of the rule.

However, the K.T. Safety Act specifically excluded all vehicles with a GVWR greater than 10,000 pounds, motorcycles, and trailers. NHTSA declined to extend scope of the rule in

response to public comments recommending that the rule cover larger vehicles not contemplated by the K.T. Safety Act. NHTSA stated:

Finally, we also decline to extend today's final rule to cover trailers, garbage trucks, and other vehicles not contemplated by the K.T. Safety Act. While we acknowledge that many of these vehicles may also have significant blind zones, we have concentrated our research and rulemaking efforts on the vehicles mandated by Congress. We believe that, by focusing on the vehicles types covered in the K.T. Safety Act, this rulemaking is able to more appropriately address the types of crashes that Congress sought to avoid. To include and accommodate vehicles with a GVWR of 10,000 lbs or more (many of which are used for commercial purposes), the agency may be required to utilize a significantly different approach with different requirements and test procedures that may not be as closely tailored to avoiding the types of crashes contemplated by the K.T. Safety Act. Further, we note that backover crashes involving vehicles with a GVWR less than 10,000 lbs represent a significant majority of both fatalities and injuries. As this rulemaking has continuously focused exclusively on vehicles covered by the K.T. Safety Act, to introduce requirements regarding other vehicles in today's final rule would raise questions regarding the sufficiency of the scope of notice of this rulemaking. Thus, today's final rule declines to introduce such requirements at this time.

### **FMCSA Decision**

The purpose of FMVSS No. 111 is to reduce the number of deaths and injuries that occur when the driver of a motor vehicle does not have a clear and reasonably unobstructed view to the rear. While both Advocates and OOIDA note that the use of camera-based technology for rear visibility may have merit for use in CMVs, and such technologies will be used by light vehicle manufacturers to meet the newly adopted requirements of FMVSS No. 111, the Atwood application did not provide sufficient evidence to demonstrate that the use of a camera system installed at the sides and rear of CMVs in lieu of rear-vision mirrors as specified in the FMCSRs would be able to provide an equivalent level of safety when compared to a compliant vehicle.

Based on the above, FMCSA denies the Atwood exemption application. FMCSA is unable to determine – as required for an exemption by 49 CFR 381.305(a) – that Atwood would be able to maintain a level of safety equivalent to, or greater than, the level achieved without the exemption.

FMCSA notes that while Atwood's use of the camera-based system in lieu of the rear vision mirrors required via § 393.80 is denied, § 393.3 of the FMCSRs expressly permits the use of additional equipment and accessories (such as the camera-based rear vision system), not inconsistent with or prohibited by the FMCSRs, provided that such equipment and accessories do not decrease the safety of operation of the motor vehicles on which they are used.

Issued on: November 30, 2015

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T.F. Scott Darling, III  
Acting Administrator

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